

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-221930 DATE: March 27, 1986
MATTER OF: IPEC Advanced Systems, Inc.

DIGEST:

Protest that apparent successful offeror is technically unacceptable is dismissed as untimely when filed more than 10 days after the basis for the protest is known or should be known by the protester whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1985).

IPEC Advanced Systems, Inc., protests the award of a contract to Compressor Service Company (Compressor), under request for proposals (RFP) No. N00123-86-R-0530, issued by the Department of the Navy for the procurement of five skid-mounted vacuum unit systems. IPEC complains that Compressor's offer was nonresponsive. We dismiss the protest.

At the outset, we note that this procurement involves competitive proposals and, thus, the concept of "responsiveness" raised by IPEC technically does not apply. Responsiveness refers to whether a bid as submitted represents an unequivocal offer to meet the agency's needs as specified in the solicitation, Franklin Instrument Co., Inc., B-201211, Feb. 8, 1982, 82-1 C.P.D. ¶ 105, and is reserved for sealed bid procurements. See Xtek, Inc., B-213166, Mar. 5, 1984, 84-1 C.P.D. ¶ 264. Where competitive proposals are solicited, an offer must be technically acceptable before it can be considered for award. See B&D Supply Co. of Arizona, Inc., B-210023, July 1, 1983, 83-2 C.P.D. ¶ 50.

IPEC states that by letter of February 20, 1986, it received notification from the Navy that Compressor was the "apparent successful offeror." In this letter, IPEC was invited to provide information concerning Compressor's small business status and was advised that "no other communications concerning this acquisition" were authorized.

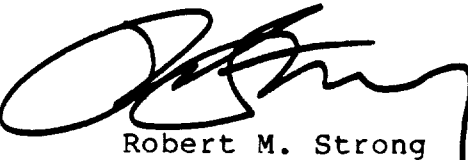
IPEC's protest is untimely. Our Bid Protest Regulations, 4 C.F.R. § 21.(a)(2) (1985), state that a protest must be filed within 10 working days after the

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protester knows or should know the basis for the protest, whichever is earlier. Here, IPEC was apprised of the acceptability of Compressor's offer in the Navy's February 20 letter. Although we do not know the exact date of IPEC's receipt of the Navy's letter, we assume the firm received the letter within 1 calendar week. See McGraw-Edison Co. and ASEA Electric, Inc., B-217311, B-217311.2, Jan. 23, 1985, 85-1 C.P.D. ¶ 95. IPEC did not file its protest with our Office until March 14, however, after receiving notice of the award to Compressor, at the latest, on March 8.

Because IPEC's protest was filed more than 10 working days after the notification from the Navy that Compressor's offer was deemed acceptable and because nothing in IPEC's submission appears to be based on information obtained after receipt of the February 20 letter, the firm's complaint is untimely. The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel